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56015 7590 01/29/2007 PATTERSON & SHERIDAN, LLP/ SEDNA PATENT SERVICES, LLC 595 SHREWSBURY AVENUE SUITE 100 SHREWSBURY, NJ 07702			EXAMINER KOENIG, ANDREW Y	
			ART UNIT 2623	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

Application No.

09/597,891

Applicant(s)

HENDRICKS ET AL.

Examiner

Andrew Y. Koenig

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7,9-29,31-36,38-51 and 53-55 is/are pending in the application.
- 4a) Of the above claim(s) 45-48 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7,9-29,31-36,38-44,49-51 and 53-55 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 1-7, 9-29, 31-36, 38-44, 49-51, and 53-55 have been considered but are moot in view of the new ground(s) of rejection.

The examiner notes that the applicant argues that U.S. Patent 5,557,316 filed 29 September 1994 is not prior art. The examiner disagrees; U.S. Patent 5,557,316 is a divisional of 08/056,958 (now U.S. Patent 5,526,034) and has been provided and relied upon to reduce any issues with continuity. Figures 10, 33, and 34 and col. 6, ll. 14-17 of U.S. Patent 5,557,316 correspond to figures 10, 33, and 34 and col. 6, ll. 8-10 of U.S. Patent 5,526,034. As such, the subject matter of 5,557,316 is fully supported in the 5,526,034 patent.

The applicant has traversed the following Official Notices:

Official Notice is taken that C and Ku Bands are well known in the art. U.S. Patent 5,412,416 to Nemirofsky teaches the use of satellite communications using the C and Ku Bands (col. 6, ll. 43-51, col. 7, ll. 10-13). (Insert rejection for claims 28-29).

Official Notice is taken that interactively selecting programs for delivery is well known in the art. Florin, already of record, teaches interactively selecting pay-per-view movies (fig. 41-21). Further, Hoarty teaches interactively selecting programs (col. 19, ll. 30-47).

Official Notice is taken that assigning run times, checking conflicts, and adding the event and service to a menu are well known in the art. U.S. Patent 5,311,423 to Clark teaches assigning run times, checking conflicts, and adding the event and service to the schedule (col. 14, ll. 1-24). U.S. Patent 5,353,121 to Young et al. teach adding events and services to a menu (col. 8, ll. 36-39).

Official Notice is taken that online services for reserving airline seats are well known in the art. U.S. Patent 5,311,425 to Inada teaches an online service for reserving airline seats (col. 14-15, ll. 67-22, col. 16, ll. 41-67).

Official Notice is taken that the use of interactive services including education programs and games is well known in the art. U.S. Patent 5,341,474 to Gelman et al. teach educational programs and interactive video games (col. 3, ll. 38-43).

Official Notice is taken that the use of purchased information is well known in the art. U.S. Patent 5,251,324 to McMullen teaches using program purchased information (col. 9, ll. 1-14, col. 24-25, ll. 62-6, col. 26, ll. 16-25).

Official Notice is taken that static programs and live event programs are known in the art. Esch, already of record, teaches the use of mixing live and static (non-live) event programs (col. 8, ll. 6-25).

Official Notice is taken that signal live source feeds is known in the art. Esch, already of record, teaches the use of mixing live and static (non-live) event programs (col. 8, ll. 6-25)

### ***Claim Objections***

2. Claims 49-51 and 53 are objected to because of the following informalities:

Independent claim 49, lines 12-13 recite, "comprises cable franchise information is integrated with...", which appears to be a typographical error and will be interpreted as: "comprises cable franchise information integrated with."

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 2, 8, 12, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,099,319 to Esch et al. (Esch) in view of U.S. Patent 5,446,919 to Wilkins and U.S. Patent 5,526,034 to Hoarty et al. (Hoarty).

Regarding claim 1, Esch teaches a scheduling processor (fig. 3, label 71) for scheduling information for merging content data signals with the video signals, which equates the program instructions for packaging programs for deliver using the television program delivery system, wherein the television program delivery system includes a cable television system (col. 3, ll. 25-26, col. 5, ll. 28-40), as shown in figure 1. Esch teaches a program storage databases (see content database -76, live database 82, col. 5, ll. 5-11, col. 5, ll. 50-62).

Esch teaches an external program source (see figure 4) coupled to the CUPU, wherein the external programs are received at the apparatus (col. 6, ll. 12-19). Further, Esch teaches a network processor for transmitting content data signals and schedule data signals as a digital stream to the modulator 85 (col. 5, ll. 50-62), which equates to a delivery control processor unit (DCPU) wherein a program control information signal is generated.

Esch teaches targeted advertising (col. 6, ll. 7-11), but is silent on a viewer information database coupled to a CPU. In analogous art, Wilkins teaches a viewer information database for storing viewer information (col. 8, ll. 15-29). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Esch by storing viewer information database coupled to a CPU as

taught by Wilkins in order to effectively transmit targeted advertising to subscribers (Wilkins: col. 6, ll. 26-42).

The combination of Esch and Wilkins teaches a headend analyzing information, wherein the information is a number of terminals connected to the headend, and integrating the headend specific information with the program control signal, in that Wilkins teaches transmitting demographic/psychographic information about the subscribers (col. 7, ll. 15-67, col. 10, ll. 59-60).

However, Esch and Wilkins are silent on integrating the cable franchise information with the program control information signal.

Hoarty teaches generation of an interactive service for accessing TV listings (col. 18, ll. 49-62) and searching programming (col. 19, ll. 20-47), which reads cable franchise information and program control information signal (see figure 6), and integrating the cable franchise information with the program control information signal (see figure 10, 33, 34, col. 6, ll. 8-10). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the program control information signal of Esch and Wilkins by integrating the cable franchise information with the program control information signal as taught by Hoarty in order to efficiently provide interactivity and additional information to the user, such as the program lineup with cable franchise information, while also creating market presence for the cable franchise.

Regarding claim 2, Esch teaches master control stations (fig. 3, labels 79 and 80), which inherently has a data entry interface, however Esch is silent on interactively

selecting programs for delivery. Official Notice is taken that interactively selecting programs for delivery is well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Esch by interactively selecting programs for delivery in order to dynamically modify the programming available to users.

Regarding claim 12, Esch teaches CACS studios that process source materials from internal and external sources, wherein the material includes audio, and text (col. 5, ll. 21-27). Esch teaches a quality control processor, which is part of the creation process and thus equates to creates programs based on the processed source materials (col. 5, ll. 41-49). Esch teaches a network processor (83) for formatting the content signals (col. 5, ll. 50-62), which equates to creating events comprising one or more programs. Esch teaches transmitting content and schedule data signals as a digital stream (col. 5, ll. 50-62), which equate to service including one or more events and assigning run times, but is silent on assigning run times and dates, and checking for conflicts. Further Esch is silent on adding events and service information to a menu. Official Notice is taken that assigning run times, checking conflicts, and adding the event and service to a menu are well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Esch by assigning run times and dates, checking for conflicts, and adding the event and service to a menu in order to provide accurate information regarding events, thereby enabling the subscribers to access additional features.



Regarding claim 13, Esch teaches the programs comprising video signal comprising advertisements (col. 3, ll. 45-53).

5. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,099,319 to Esch et al. (Esch), U.S. Patent 5,446,919 to Wilkins, and U.S. Patent 5,526,034 to Hoarty et al. (Hoarty) in view of U.S. Patent 5,223,924 to Strubbe.

Regarding claim 3, Esch teaches targeted advertising (col. 6, ll. 7-11), but is silent on program watched information for terminals in the delivery system. In analogous art, Strubbe teaches a database storing program information data records of watched programs (col. 3-4, ll. 59-2, col. 4, ll. 17-20). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Esch and Wilkins by using program watched information as taught by Strubbe in order to correlate targeted programming to the user, thereby increasing the effectiveness of the media.

6. Claims 4-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,099,319 to Esch et al. (Esch), U.S. Patent 5,446,919 to Wilkins, U.S. Patent 5,526,034 to Hoarty et al. (Hoarty), and U.S. Patent 5,223,924 to Strubbe in view of U.S. Patent 5,351,075 to Herz et al. (Herz).

Regarding claim 4, Esch, Wilkins, and Strubbe are silent on an optimum time. Herz teaches dynamically adjusting programming based on users (col. 6, ll. 46-68), which equates to an optimum time. Therefore, it would have been obvious to one of

ordinary skill in the art at the time the invention was made to modify Esch, Wilkins, and Strubbe by determining an optimum time as taught by Herz in order to provide desirable programming during prime time viewing for the users.

Regarding claim 5, Esch, Wilkins, and Strubbe are silent on maximizing expected programs watched. Herz teaches the most requested programs are broadcast during prime time (col. 6, ll. 46-68), which equates to maximizing expected programs watched. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Esch, Wilkins, and Strubbe by maximizing expected programs watched as taught by Herz in order to provide desirable programming during prime time viewing for the users.

Regarding claim 6, Esch, Wilkins, and Strubbe are silent on maximizing viewer buy rates. Herz teaches maximizing expected programs watched (col. 6, ll. 46-68), which also maximizes the buy rate in that more desirable programming is available during prime time (col. 8, ll. 39-44), which equates to maximizing the viewer buy rate.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Esch, Wilkins, and Strubbe by maximizing the viewer buy rate as taught by Herz in order to increase the revenue of the system while enabling the users to customize the desirable programming.

Regarding claim 7, Esch, Wilkins, and Strubbe are silent on determining an optimum mix of programs, wherein the optimum mix of programs is based on one or more program substitutes, program complements, time slice positioning, program repetitions, transponder availability, and menu positioning. Herz teaches an optimum

mix based on time slice positioning during prime time (col. 6, ll. 27-68). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Esch, Wilkins, and Strubbe by determining an optimum mix of programs based on time slice positioning as taught by Herz in order to increase the revenue of the system while enabling the users to customize the desirable programming.

7. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,099,319 to Esch et al. (Esch), U.S. Patent 5,446,919 to Wilkins, and U.S. Patent 5,526,034 to Hoarty et al. (Hoarty) in view of U.S. Patent 5,583,560 to Florin et al. (Florin).

Regarding claim 9, Esch and Wilkins are silent on a determining menu forms and positions, providing a menu display, and providing on-the-fly menu editing. Florin teaches different menus and forms, such as different forms of displays – see figures 12-19, 27-32), along with applying changing data, which equates to on-the-fly menu editing (col. 11, ll. 8-15). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Esch and Wilkins by determining menu forms and positions, providing a menu display, and providing on-the-fly menu editing as taught by Florin in order to dynamically adjust to programming changes and provide current information to the user.

8. Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,099,319 to Esch et al. (Esch), U.S. Patent 5,446,919 to Wilkins, and

U.S. Patent 5,526,034 to Hoarty et al. (Hoarty) in view of U.S. Patent 5,351,075 to Herz et al. (Herz).

Regarding claim 10, Esch and Wilkins teaches packaging the program control information signal and the programs, but are silent on a graphical allocation display and providing interactive reallocation of transponder space. In analogous art, Herz teaches a graph of time slots for programming editing programming based on received information (col. 6, ll. 27-68), which equates to graphical allocation display and providing interactive reallocation of transponder space. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Esch and Wilkins by using a graphical allocation display and providing interactive reallocation of transponder space as taught by Herz in order to efficiently allocate programming by maximizing the benefits of prime time viewing thereby enabling more desirable programming to be sent to viewers.

Regarding claim 11, Esch and Wilkins are silent on using importance weighting algorithms and best fit time algorithms to assign program time slots. Herz teaches determining the most popular programs during prime time (col. 6, ll. 27-68), which equates to importance weighting algorithms and best fit time algorithms to assign program time slots. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Esch and Wilkins by implementing importance weighting algorithms and best fit time algorithms to assign program time slots as taught by Herz in order to increase revenue while also providing desirable programming to viewers.

9. Claims 14, 15, 17-19, 25-27, and 31-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,446,919 to Wilkins in view of U.S. Patent 5,526,034 to Hoarty et al. (Hoarty).

Regarding claim 14, Wilkins teaches collecting user information for one or more users in the network (col. 8, ll. 7-29), receiving program information related to available programs (col. 8, ll. 42-62), determining a program lineup based on the collected user information and the program information (col. 11, ll. 20-48), analyzing information related to a specific cable headend to generate a cable headend specific information signal (col. 8, ll. 7-14, col. 8, ll. 32-37: data of each of the subscribers' decoders is analyzed to produce effective targeted information), providing the lineup to one or more terminals (col. 11, ll. 20-48).

Wilkins is silent on generating a program control information signal and combining the program lineup and the cable headend specific information signal comprising cable franchise information for transmission over the network, wherein the cable headend specific information signal is integrated with the program control information signal.

Hoarty teaches generation of an interactive service for accessing TV listings (col. 18, ll. 49-62) and searching programming (col. 19, ll. 20-47), which reads on generating a program control information signal, combining the program lineup and the cable headend specific information, wherein the cable headend specific information signal is integrated with the program control information signal (see figure 10, 33, 34, col. 6, ll. 8-

10). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wilkins by generating a program control information signal and combining the program lineup and the cable headend specific information signal comprising cable franchise information for transmission over the network, wherein the cable headend specific information signal is integrated with the program control information signal as taught by Hoarty in order to efficiently provide interactivity and additional information to the user, such as the program lineup with cable franchise information, while also creating market presence for the cable franchise.

Regarding claim 15, Wilkins teaches broadcasting the programs to the terminals in the network, there broadcast arranged according to the lineup (col. 11, ll. 20-48).

Regarding claim 17, Wilkins teaches program lineups for users (col. 11, ll. 20-48), wherein each of the lineups is determined based on information for a group of users as defined by the advertisement characteristics, wherein the is broadcast according to the lineup (col. 9-10, ll. 60-11).

Regarding claim 18, Wilkins teaches users serviced by the headend (fig. 1A, 1B).

Regarding claim 19, Wilkins teaches that each of the targeted commercials (program lineup) and the broadcast program (program segment) are provided in a separate program channel (fig. 3).

Regarding claim 25, Wilkins teaches local commercials (col. 8, ll. 56-61, col. 9, ll. 60-64), which equates to a program lineup including local avails.

Regarding claim 26, Wilkins teaches targeted commercials (col. 10, ll. 59-61), which equates to program lineups provided directly to the terminals.

Regarding claim 27, Wilkins teaches satellite distribution (col. 8, ll. 66-68).

Regarding claim 31, Wilkins teaches cable distribution (col. 8, ll. 63-68).

Regarding claim 32, Wilkins teaches satellite distribution (col. 8, ll. 63-68), which equates to using over-the-air broadcasts.

Regarding claim 33, Wilkins teaches receiving the program lineup using the interval detection decoder (col. 11, ll. 27-37), and programs are provided using the tune (second communication device)(fig. 2).

Regarding claim 34, Wilkins teaches using the vertical interval of the video signal (col. 8, ll. 48-55), which equates to a first communications means is a dedicated channel.

10. Claims 16, 24, 35, 36, and 38-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,446,919 to Wilkins and U.S. Patent 5,526,034 to Hoarty et al. (Hoarty) in view of U.S. Patent 5,583,560 to Florin et al. (Florin)

Regarding claim 16, Wilkins teaches a unique program lineup determined for each terminal in the network (col. 7, ll. 15-37), and teaches providing the selected program to the user (col. 11, ll. 39-48), but is silent on receiving a program selection from a user, based on the unique lineup. In analogous art, Florin teaches a favorites menu and selecting programs from the menu (col. 3, ll. 40-44, col. 19, ll. 27-62, fig. 30), which equates to receiving a program selection from a user, based on the unique lineup. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wilkins by receiving a program selection from a

user, based on the unique lineup as taught by Florin in order to facilitate easily selection of desirable programming.

Regarding claim 24, Wilkins teaches a unique program lineup determined for each terminal in the network (col. 7, ll. 15-37), and teaches providing the selected program to the user (col. 11, ll. 39-48), but is silent on receiving a program selection from a user, based on the unique lineup. In analogous art, Florin teaches a favorites menu and selecting programs from the menu (col. 3, ll. 40-44, col. 19, ll. 27-62, fig. 30), which equates to receiving a program selection from a user, based on the unique lineup. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wilkins by receiving a program selection from a user, based on the unique lineup as taught by Florin in order to facilitate easily selection of desirable programming.

Regarding claims 35, Wilkins is silent on generating an original menu and a menu different from the original. In analogous art, Florin teaches generating menu format information to generate an original menu (see fig. 12-19) and a menu different from the original (see fig. 30). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wilkins by generating menu format information to generate an original menu (see fig. 12-19) and a menu different from the original (see fig. 30) as taught by Florin in order to provide the user with the ability to access all programs and a menu directed to the user of the device, thereby facilitating program selection.



Regarding claims 36, Wilkins is silent on interactive services, subscription services, and data services. In analogous art, Florin teaches interactive services and subscription services (such as ordering programming as shown in figure 41) along with data services (such as ordering products as shown in figures 44-50). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wilkins by implementing interactive services, subscription services, and data services as taught by Florin in order to enable the user to easily access and order products and services using the same device.

Regarding claims 38, Wilkins and Florin are silent on online services for reserving airline seats. Official Notice is taken that online services for reserving airline seats are well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wilkins and Florin by using online services for reserving airline seats in order to facilitate the user in purchasing products online.

Regarding claims 39, the combination of Wilkins and Florin teaches subscription services based on a calendar period, in that the user order a program as shown in figure 41, col. 23, ll. 13-42 of Florin.

Regarding claims 40, Wilkins and Florin are silent on interactive services including education programs and games. Official Notice is taken that the use of interactive services including education programs and games is well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wilkins and Florin to use interactive services including

education programs and games in order to provide useful information to the user thereby increasing interactivity.

11. Claims 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,446,919 to Wilkins and U.S. Patent 5,526,034 to Hoarty et al. (Hoarty) in view of U.S. Patent 5,223,924 to Strubbe.

Regarding claim 20, Wilkins teaches demographic information (col. 7, ll. 15-37), which is based upon the programming that is selected by the user (col. 10-11, ll. 54-5), which equates to user-provided data. However, Wilkins is silent on programs watched information. In analogous art, Strubbe teaches a database storing program information data records of watched programs (col. 3-4, ll. 59-2, col. 4, ll. 17-20). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wilkins by using program watched information as taught by Strubbe in order to correlate targeted programming to the user, thereby increasing the effectiveness of the media.

Regarding claim 21, the combination of Wilkins and Strubbe teaches program viewing times and channel tuning information (Wilkins: col. 10-11, ll. 54-5, Strubbe: col. 4, ll. 33-38), but is silent on programs purchased information. Official Notice is taken that the use of purchased information is well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to

modify Wilkins and Strubbe by monitoring purchased information in order to more effectively target the user with desirable programming.

12. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,446,919 to Wilkins, U.S. Patent 5,526,034 to Hoarty et al. (Hoarty), and U.S. Patent 5,223,924 to Strubbe in view of U.S. Patent 5,351,075 to Herz et al. (Herz).

Regarding claim 22, Wilkins and Strubbe are silent on an optimum program lineup and packaging the optimum lineup. Herz teaches dynamically adjusting programming based on users (col. 6, ll. 46-68), which equates to an optimum program lineup and packaging the optimum lineup. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Esch, Wilkins, and Strubbe by determining an optimum program lineup and packaging the optimum lineup as taught by Herz in order to provide desirable programming during prime time viewing for the users.

13. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,446,919 to Wilkins, U.S. Patent 5,526,034 to Hoarty et al. (Hoarty), and U.S. Patent 5,223,924 to Strubbe in view of U.S. Patent 55,027,400 to Baji et al.

Regarding claim 23, Wilkins is silent on program category information, channels assignments, programs on channels, program start/stop times, durations, program descriptions, and sample clips. In analogous art, Strubbe teaches type of program (claimed program category information including names of program categories),

channels assigned to programming, program start and length (claims program start/stop time and duration), text summary (program description) for each program, which equates to programs available on each of the channels (col. 3-4, ll. 59-2, col. 6, ll. 25-29).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wilkins by program category information, channels assignments, programs on channels, program start/stop times, durations, program descriptions as taught by Strubbe in order to gather more detailed information on programming thereby enabling the system to effectively target content..

Wilkins and Strubbe are silent on sample video clips. In analogous art, Baji teaches sample video clips (col. 11, ll. 34-47), which equates to sample video clips. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wilkins and Strubbe by using sample video clips as taught by Baji in order to preview information and determine whether the purchase the program.

14. Claims 41-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,446,919 to Wilkins and U.S. Patent 5,526,034 to Hoarty et al. (Hoarty) in view of U.S. Patent 5,351,075 to Herz et al. (Herz).

Regarding claim 41, Wilkins is silent on receiving marketing information, determining importance for each program, assigning a weighting factor, and positioning each of the available programs within the lineup. In analogous art, Herz teaches

dynamically adjusting programming based on users (col. 6, ll. 46-68), receiving marketing information, determining importance for each program, assigning a weighting factor, and positioning each of the available programs within the lineup. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wilkins by receiving marketing information, determining importance for each program, assigning a weighting factor, and positioning each of the available programs within the lineup as taught by Herz in order to provide desirable programming during prime time viewing for the users.

Regarding claim 42, Wilkins is silent on maximizing yield management value. Herz teaches the most requested programs are broadcast during prime time (col. 6, ll. 46-68), which equates to maximizing yield management value. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wilkins by maximizing yield management value as taught by Herz in order to provide desirable programming during prime time viewing for the users.

Regarding claim 43, Wilkins is silent on maximizing yield management value. Herz teaches maximizing yield management value (col. 6, ll. 46-68). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wilkins by maximizing yield management value as taught by Herz in order to increase the revenue of the system while enabling the users to customize the desirable programming.

Regarding claim 44, Wilkins is silent on marketing information comprising profit value and program viewed information. Herz teaches an optimum mix based on time

slice positioning during prime time (col. 6, ll. 27-68), which maximizes profit for programs viewed. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wilkins by marketing information comprising profit value and program viewed information as taught by Herz in order to increase the revenue of the system while enabling the users to customize the desirable programming.

15. Claims 49-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,583,560 to Florin et al. (Florin) in view of U.S. Patent 5,526,034 to Hoarty et al. (Hoarty).

Regarding claim 49, Florin teaches receiving program listings on a dedicated channel (fig. 3a, label 100), which are clearly selected for packaging in order to be received, wherein the stream has the programs start time and length (col. 10-11, ll. 45-14), (which equates to program start times and dates). Florin teaches the frequency spectrum (fig. 3a), wherein the system inherently allocates transponder space, in that the system has shown how the frequencies are used. Florin teaches prices for programs as shown in figure 41, information for generating a program menu via the program listings channel (fig. 3a), which equates to a program control information signal, packaging the programs and program control information signal (see entire spectrum of fig 3a), and transmitting the programs and the program control information signal in that the signal is received (col. 10, ll. 33-44).

Florin is silent on analyzing information related to a specific cable headend in the program delivery system to generate a cable headend specific information signal, wherein the cable headend specific information signal comprises cable franchise information integrated with the program control information signal.

Hoarty teaches generation of an interactive service for accessing TV listings (col. 18, ll. 49-62) and searching programming (col. 19, ll. 20-47), which reads on analyzing information related to a specific cable headend in the program delivery system to generate a cable headend specific information signal, wherein the cable headend specific information signal comprises cable franchise information integrated with the program control information signal (see figure 10, 33, 34, col. 6, ll. 8-10). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the program control information signal of Florin by analyzing information related to a specific cable headend in the program delivery system to generate a cable headend specific information signal, wherein the cable headend specific information signal comprises cable franchise information integrated with the program control information signal as taught by Hoarty in order to efficiently provide interactivity and additional information to the user, such as the program lineup with cable franchise information, while also creating market presence for the cable franchise.

Regarding claim 50, Florin teaches selecting types of programs for packaging and adding addition program elements, in that Florin teaches digital program listing channel, analog channels, pay-per-view channels, and addition digital channels (fig. 3a).

16. Claims 51 and 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,583,560 to Florin et al. (Florin) and U.S. Patent 5,526,034 to Hoarty et al. (Hoarty).

Regarding claim 51, Florin teaches program types of analog channels, pay-per-view channels, and addition digital channels (fig. 3a), which equates to pay-per-view and subscription programs, interactive programs and data services. Florin is silent on static programs and live event programs. Official Notice is taken that static programs and live event programs are known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Florin by using static programs and live event programs in order to provide different information and types of media to the user, thereby increasing the information available to the user.

Regarding claim 53, Florin is silent on generating cable franchise information, and combining the information with the program control information signal and the programming package. In analogous art, Hoarty teaches a cable franchise information of ICTV (col. 6, ll. 8-10), which is displayed at the user terminal as shown in figures 33 and 34, which equates to generating cable franchise information and sending the cable information along with the program control information and programming package as shown in figure 10. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Florin by generating cable franchise information, and combining the information with the program control information signal



and the programming package as taught by Hoarty in order to identify the cable franchise thereby creating market presence for the product.

17. Claims 54 and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,583,560 to Florin et al. (Florin) and U.S. Patent 5,526,034 to Hoarty et al. (Hoarty) in view of U.S. Patent 5,446,919 to Wilkins and U.S. Patent 5,027,400 to Baji et al. (Baji).

Regarding claim 54, Florin teaches displaying a program schedule and program menu (fig. 3a, 3b, 12-19), which equates to developing a program schedule and a program menu, but is silent on identifying time slots for local avails. In analogous art, Wilkins teaches identifying time slots for local avails (col. 8, ll. 56-61, col. 9, ll. 60-64). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Florin by identifying time slots for local avails as taught by Wilkins in order to provide local commercials to viewers.

Further, Florin is teaches updating the program information (col. 11, ll. 8-15), which equates to editing the program schedule and program menu.

Florin is silent on identifying external programs comprising gathering programs from external sources and converting to a standard format, and identifying internal programs comprising accessing stored programs and converting to a standard format. In analogous art, Baji teaches a real-time external broadcast source (fig. 4, label 101) and internal sources (fig. 4, label 103) and converting to a standard format by modulator (fig. 4, 119). Therefore, it would have been obvious to one of ordinary skill in the art at

the time the invention was made to modify Florin by gathering programs from external sources and converting to a standard format, and identifying internal programs comprising accessing stored programs and converting to a standard format as taught by Baji in order to provide different sources of information to the user.

Florin is silent on identifying live programs, comprising signaling live program source feeds. Official Notice is taken that signal live source feeds is known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Florin by signaling live program source feeds in order to prepare the system for receiving the incoming signal, thereby enabling the system to effectively process in the incoming signal.

Florin as shown in figure 3a, teaches combining all the programs (as discussed above: external, internal, and live) and generating program signals based on the programming (figure 3b col. 10-11, ll. 33-14).

Florin is silent on analyzing information related to a specific cable headend in the program delivery system to generate a cable headend specific information signal, wherein the cable headend specific information signal comprises cable franchise information integrated with the program control information signal.

Hoarty teaches generation of an interactive service for accessing TV listings (col. 18, ll. 49-62) and searching programming (col. 19, ll. 20-47), which reads on analyzing information related to a specific cable headend in the program delivery system to generate a cable headend specific information signal, wherein the cable headend specific information signal comprises cable franchise information integrated with the

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program control information signal (see figure 10, 33, 34, col. 6, ll. 8-10). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the program control information signal of Florin by analyzing information related to a specific cable headend in the program delivery system to generate a cable headend specific information signal, wherein the cable headend specific information signal comprises cable franchise information integrated with the program control information signal as taught by Hoarty in order to efficiently provide interactivity and additional information to the user, such as the program lineup with cable franchise information, while also creating market presence for the cable franchise.

Regarding claim 55, Florin is silent on generating cable franchise information, and combining the information with the program control information signal and the programming package. In analogous art, Hoarty teaches a cable franchise information of ICTV (col. 6, ll. 14-17), which is displayed at the user terminal as shown in figures 33 and 34, which equates to generating cable franchise information and sending the cable information along with the program control information and programming package as shown in figure 10. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Florin by generating cable franchise information, and combining the information with the program control information signal and the programming package as taught by Hoarty in order to identify the cable franchise thereby creating market presence for the product.

### ***Conclusion***

18. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Y. Koenig whose telephone number is (571) 272-7296. The examiner can normally be reached on M-Fr (8:30 - 5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571)272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Andrew Y Koenig  
Primary Examiner  
Art Unit 2623

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